

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Frederic Knaak,

Complainant,
vs.

ORDER OF DISMISSAL

Jim Schottmuller,

Respondent.

On September 2, 2008, Frederic Knaak, as attorney for the Bennett Volunteer Committee, filed a Complaint with the Office of Administrative Hearings alleging Jim Schottmuller violated Minn. Stat. § 211B.04.

The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge on September 5, 2008, pursuant to Minn. Stat. § 211B.33. A copy of the Complaint and attachments were sent by United States mail on September 5, 2008.

After reviewing the Complaint and attachments, the Administrative Law Judge finds that the Complaint does not support a prima facie violation of Minn. Stat. § 211B.04.

Based upon the Complaint and the supporting filings and for the reasons set out in the attached Memorandum,

IT IS ORDERED:

That the Complaint filed by Frederic Knaak against Jim Schottmuller is DISMISSED.

Dated: September 5, 2008

/s/ Kathleen D. Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge

NOTICE

Under Minn. Stat. § 211B.36, subd. 5, this order is the final decision in this matter and a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. § § 14.63 to 14.69.

MEMORANDUM

The Complaint alleges that the Respondent has distributed campaign leaflets and lawn signs that do not prominently display a disclaimer that includes the name and address of his campaign committee in violation of Minnesota Statutes § 211B.04.

On April 26, 2006, the Minnesota Court of Appeals issued its decision in *Riley v. Jankowski*,¹ holding that the disclaimer requirement of Minn. Stat. § 211B.04 violates the First Amendment of the U.S. Constitution by directly regulating the content of pure speech and that there is no way to narrowly construe the statute to avoid the constitutional violation. Because the Minnesota Court of Appeals has determined that Minn. Stat. § 211B.04 is unconstitutional on its face, and therefore unenforceable, the Complaint against Mr. Schottmuller is dismissed.

K.D.S.

¹ 713 N.W.2d 379, 401 (Minn. App. 2006), *rev. denied* (Minn. July 20, 2006).